

EXHIBIT E

STEVEN C. BARKLEY
ATTORNEY AT LAW

BOARD CERTIFIED Personal Injury and
Civil Trial Law

3560 Delaware, Suite 305
Beaumont, Texas 77706

Phone (409) 899-2277 • 1-800-882-3629 • Fax (409) 899-2477 • BaylorLawyer@aol.com

June, 13 2013

Lolita Ramos
District Clerk
1001 Pearl Street, Room 203
Beaumont, Texas 77701

RE: LINDA DIANE BELYEU et vir vs CHRISTUS HEALTH SOUTHEAST TEXAS et all

Dear Ms. Lolita

Enclosed please find the Original Petition, (3) copies of the Original Petition, Civil Case Information Sheet, and a check in the amount of \$281.00 to cover filing fees. Please file, stamp and return.

Thank you for your courtesy in this important matter.

Sincerely,

Steven C. Barkley
SCB/jr
Enclosure

FILED
DISTRICT COURT OF
SOUTHEAST TEXAS
JUN 13 P 4:21
Lolita Ramos
District Clerk

D194445

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De.

CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY):

D 194445

COURT (FOR CLERK USE ONLY):

STYLED LINDA DIANE BELYEU et vir vs CHRISTUS HEALTH SOUTHEAST TEXAS et al

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. This sheet, approved by the Texas Judicial Council, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet: Name: <u>Steven C. Barkley</u> Address: <u>3560 Delaware, ste. 305</u> City/State/Zip: <u>Beaumont, TX 77706</u> Signature: <u>[Signature]</u> Email: <u>Baylorlawyer@aol.com</u> Telephone: <u>(409) 899-2277</u> Fax: <u>(409) 899-2477</u> State Bar No: <u>01750500</u>		Names of parties in case: Plaintiff(s)/Petitioner(s): <u>Linda Diane Belyeu</u> <u>Jimmy Belyeu</u> Defendant(s)/Respondent(s): <u>Christus Health Southeast Texas</u> <u>Christus Health</u> <u>Otis Elevator Company</u> [Attach additional page as necessary to list all parties]		Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____	
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:		Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input checked="" type="checkbox"/> Premises Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: <input type="checkbox"/> Other Injury or Damage:		Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:	
Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children		Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order		Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:	
Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:		Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other:		Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child:	
Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax		Probate & Mental Health Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:			
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	

Jefferson County District Court

EFILED

File & ServeXpress

Transaction ID: 52952708

Date: Jun 13 2013 04:21PM

Lolita Ramos, Clerk

NO. D194445LINDA DIANE BELYEU
et vir

VS.

CHRISTUS HEALTH
SOUTHEAST TEXAS
et al§
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§
§

IN THE DISTRICT COURT OF

JEFFERSON COUNTY, TEXAS

136th JUDICIAL DISTRICTPLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW **Linda "Diane" Belyeu** and her husband **Jimmy Belyeu**, Plaintiffs, complaining of Christus Health Southeast Texas, Christus Health, and Otis Elevator Company, Defendants, and for cause of action would respectfully show unto this Honorable Court the following:

I.

Plaintiffs, Diane Belyeu and her husband, Jimmy Belyeu, are residents of Port Arthur, Jefferson County, Texas.

Defendant, Christus Health Southeast Texas is a Texas non profit corporation. It owns and operates Christus Hospital - St. Elizabeth located in Beaumont, Jefferson County, Texas. It may be served with process by serving its registered agent for service of process in Texas; Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

Christus Health is a Texas non profit corporation. It may be served with process by serving its registered agent for service of process in Texas; Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

Defendant, Otis Elevator Company is a New Jersey Corporation. At all time pertinent to this cause of action, it was doing business within the venue and jurisdiction of this court. It may be served with process by serving its registered agent for service of process in Texas; CT Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, Texas 75201.

FILED
DISTRICT COURT OF
JEFFERSON COUNTY, TEXAS
JUN 13 P 4:21
Lolita Ramos

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II.

This lawsuit arises out of an accident that occurred August 2, 2012. Christus Health Southeast Texas owns and operates St. Elizabeth Hospital located in Beaumont. The St. Elizabeth campus includes a parking garage located between Calder Avenue and North Street. The parking garage has an elevator manufactured and serviced by Defendant Otis Elevator Company (hereinafter "Otis").

On August 2, 2012 Diane Belyeu was employed by Christus Health Southeast Texas as a Registered Nurse. She had worked for the company many, many years. She worked at St. Elizabeth's Cardiac Telemetry Unit. She worked thirty-six hours one week and forty-six hours the next week. She made a very good living. She had worked for St. Elizabeth since 1992.

III.

On the day of her accident, she drove her vehicle to work. She drove into the parking garage and parked on the second floor. She got into the Otis elevator to go to the ground floor. The elevator descended to the first floor and the elevator doors opened. Diane Belyeu stepped out of the elevator and fell heavily to the ground, severely injuring her left knee. When she looked back, she saw that the elevator had stopped with its floor located five inches above the level of the parking garage floor.

IV.

Diane Belyeu reported the accident to Christus Health Southeast Texas. The employee health department at the hospital sent her to an on site physician who covered employee health. Towards the end of September, 2012, Plaintiff was sent to a Beaumont orthopedic surgeon who performed an MRI. The MRI showed that Plaintiff sustained a torn meniscus in her left knee. Initially Christus Health refused to pay for the surgery as they said it was pre-existing. Nevertheless, Plaintiff was able to have the surgery. The orthopedic surgeon performing the surgery found two tears in Plaintiff's left knee.

V.

Plaintiff was unable to work for some time. In March, 2012, Plaintiff finally was cleared to attempt to return to work. She returned to her job in the Cardiac Telemetry Unit. However she had great difficulty in moving through the unit. When she walked down the hall of her unit, she was forced to lean on the railings on the side of the hall to attempt to support her while she was working.

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On April 3rd, Christus Health Southeast Texas told Plaintiff to go home. The human resources department at St. Elizabeth along with Plaintiff's nurse manager, told her to go home and clock out as it did not appear that she could physically do the work. Plaintiff has been unable to work since that date.

VI.

Plaintiff would show that Christus Health Southeast Texas did not carry Worker's Compensation insurance. Therefor, Christus Health Southeast Texas cannot reduce Plaintiff's recovery through any of the common law defenses that Christus Health Southeast Texas would have had if it had carried Worker's Compensation insurance. It waived its common law defenses.

Plaintiff would show that at the time of her accident she had the status of a business invitee on Christus Health Southeast Texas' premises. Christus Health Southeast Texas had the duty to exercise reasonable care to provide a safe place for Plaintiff to work. Plaintiff would show that there had been problems with the elevator for quite some time. Nevertheless Christus Health Southeast Texas had neither repaired the elevator nor taken it out of service until it could be adequately repaired.

Plaintiff would show that her accident and resulting injuries were proximately caused by one or more of the following negligent acts or omissions on the part of Christus Health Southeast Texas:

1. Failing to maintain a safe place to work.
2. Failing to repair the elevator.
3. Failing to take the elevator out of service after having been notified that the elevator was not in good repair.
4. Failing to warn Plaintiff and others.
5. Failing to notify the service representative that the elevator needed repair.
6. Failing to timely provide medical care to Plaintiff.

VII.

Plaintiff would show that the elevator was sold and serviced by Defendant Otis Elevator Company (hereinafter "Otis"). Otis failed to maintain the elevator in a reasonably safe condition. Upon information and belief Otis was previously notified that the elevator was not stopping with the elevator floor level with the floors on the parking garage. Nevertheless, Otis failed to repair the elevator or to take the elevator out of service if it could not be repaired. Otis negligently failed to provide service on the elevator. Such negligence was a proximate cause of Plaintiff's accident and resulting injuries.

VIII.

Christus Health is the plan administrator for the Christus Health Texas Occupational Injury Assistance Plan. Diane Belyeu was entitled to recover medical and wage replacement benefits from Christus Health under the provisions of the Christus Health Texas Occupational Injury Assistance Plan. The administrator of the plan was Christus Health. Christus Health, however, refused or failed to provide the benefits that Plaintiff, Diane Belyeu, was entitled to receive. Among other benefits, Christus Health did not provide all necessary medical care and did not provide short term and long term disability benefits. Plaintiff seeks to recover those benefits that she is entitled to receive under the Occupational Injury Assistance Plan from Christus Health. Plaintiff would show that all conditions precedent have been satisfied for her to bring this action.

Plaintiff also seeks to recover her reasonable attorney's fees from Christus Health necessitated by her having to file this law suit to recover benefits.

IX.

Jimmy Belyeu is Plaintiff, Diane Belyeu's husband. As a result of his wife's injury, Jimmy Belyeu has sustained a loss of consortium. Additionally, Jimmy Belyeu is disabled. Plaintiff Diane Belyeu provided most of the support for the Belyeu household. She is now unable to work and is not drawing disability benefits.

X.

Plaintiff Diane Belyeu would show that her damages include the following:

1. Loss of past earnings and future earning capacity.
2. Past and future medical benefits.

D.B.

3. Past and future physical impairment.
4. Past and future disability compensation.
5. Past and future pain, suffering and mental anguish.

When measured in money, her damages are significant and substantially exceed the minimum jurisdictional limits of this court.

XI.

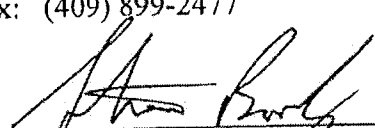
Plaintiff Jimmy Belyeu would show that his damages, when measured in money, are significant. They also exceed the minimum jurisdictional limits of this court.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully pray that Defendants be cited to appear and answer herein, and that upon final hearing hereof Plaintiffs have Judgment for their damages, for pre and post-judgment interest, for costs of court, and for such other and further relief to which they may be entitled.

Respectfully submitted,

STEVEN C. BARKLEY
ATTORNEY AT LAW
3560 Delaware, Suite 305
Beaumont, Texas 77706
Phone: (409) 899-2277
Fax: (409) 899-2477



STEVEN C. BARKLEY
STATE BAR NO. 01750500
ATTORNEY FOR PLAINTIFFS,
LINDA DIANE BELYEU AND
JIMMY BELYEU

D.f.

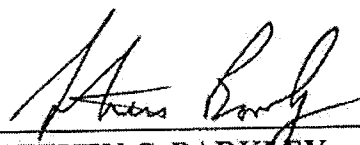
JURY DEMAND

Plaintiffs hereby request a trial by jury in this cause of action.


STEVEN C. BARKLEY

REQUEST FOR DISCLOSURE

The Defendants are requested to disclose the matters set forth in Texas Rules of Civil Procedure Rule 194.


STEVEN C. BARKLEY

D.R.

REC'D T FOR: FEES

Cause No: D-0194445 Date: 6/14/13 Receipt No: 279528
Style: LINDA DIANE BELYEU ET VIR
vs CHRISTUS HEALTH SOUTHEAST TEXAS ET AL

Paid By: BARKLEY, STEVEN C
Amt Paid: 281.00 CHECK 5815 Bal Due: .00 P

10.00	RECORDS MANAGEMENT	10.00	COURT RECORD PRESERVATIO
5.00	RECORDS ARCHIVE FEE		
50.00	COUNTY FILING FEE		
50.00	STATE FILING FEE		
10.00	LIBRARY FEE		
15.00	MEDIATION CENTER FEE		
30.00	JURY		
15.00	STENO		
5.00	SECURITY FEE		
10.00	INDIGENT FEE		
42.00	JUDICIAL SUPPORT		
5.00	APPELLATE JUDICIAL SYSTE		

LOLITA RAMOS, CLERK DISTRICT COURTS
Jefferson County, Texas

By: Sherrye Deputy

Dr